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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 24,2003

VIA EXPRESS MAIL

Commissioner Kathleen Abernathy
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *Ex Parte Presentation – Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98: Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket 98-147*

Dear Commissioner Abernathy:

Thank you again for meeting with me and other representatives of the CLEC industry last Wednesday to discuss the issues now before the Commission in the Triennial Review. During the meeting I explained the various problems that my company encounters in using UNE-I, to provision customers in conjunction with our own switching capacity. This letter and the attached analysis is in response to your request for additional information.

As the analysis clearly indicates, the use of UNE-I, to provision residential and small business customers is not a viable option at this time. Even for companies like ITC^DeltaCom that already have switches installed, there is no economic way to serve residential and small business customers without the availability of UNE-P at TELRIC rates.

Sincerely.

cc: Chairman Powell
Commissioner Copps
Commissioner Martin
Commissioner Adelstein
Matthew Brill, Office of Commissioner Abemathy
Christopher Libertelli, Office of Chairman Powell
Jordan Goldstein, Office of Commissioner Copps
Dan Gonzalez, Office of Commissioner Martin
Lisa Zaina, Office of Commissioner Adelstein
Marlene H. Dortch, Secretary
Qualex

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Telecommunications Competition Demands TELRIC Pricing

The ability of a Competitive Local Exchange Carrier (CLEC) will be significantly impaired, if not completely eliminated, if UNE-P at TELFUC prices is discontinued.

In its current state, UNE-L is not a viable option for competition. There are obvious barriers such as the geographic dispersion of BellSouth's wire centers and the size of the market at each end user serving wire center. Additionally, the costs and reliability of the hot cut process and the status of capital markets effectively preclude UNE-L as an option for competitors. BellSouth is not currently required to provide equivalent service on the UNE-L platform and parity of service does not exist. The minimum condition must be technical parity in the quality of UNE-L circuits, as well as reforms that address other impairments.

UNE-L As Deployed Currently

Scenario
A BellSouth customer will change telecommunication services to a CLEC. The customer will have a –6 dbm level with BellSouth and when the customer is transferred to the CLEC via a UNE-L platform the customer will hnve,for example, a –10 dbm level. Note: Because of the poor signal to noise rntio on the line, the power levels cannot be increased to make up for the loss.

The human ear can detect a 3 db loss. More significantly, facsimile machines will no longer function properly. (Data is significantly less forgiving during transmission than voice.)

The reason for the degradation in service is result of how BellSouth provisions the service. The service is provisioned to deliver a high grade of service if the end user is a BellSouth customer. When the customer is the end user of BellSouth, the customer is provisioned on fiber with a minimal number of analog to digital conversions.

However, if the end user is a facility based CLEC customer, BellSouth provisions the CLEC on UNE-L that just meets the minimum standards for transmission and/or introduces additional analog to digital conversions. BellSouth typically provisions the minimum standards for CLECs and will provide the UNE-L on any copper loop that meets the minimum standards for transmission. Moreover, any additional analog to digital conversions affect all high speed analog data communication, thus neither high speed facsimile nor V series analog modems using any trellis coding modulation protocols, commonly used for dial up Internet access service, can properly clock to the remote device. The net effect is a significant and unacceptable degradation of service to CLEC end users.

Additionally, there are economic considerations that prevent the UNE-L from being viable. BellSouth charges excessive rates for hot cuts and their "required" Project Managers are not held accountable for mishaps during a hot cut.

Provisioning of UNE-L versus UNE-P

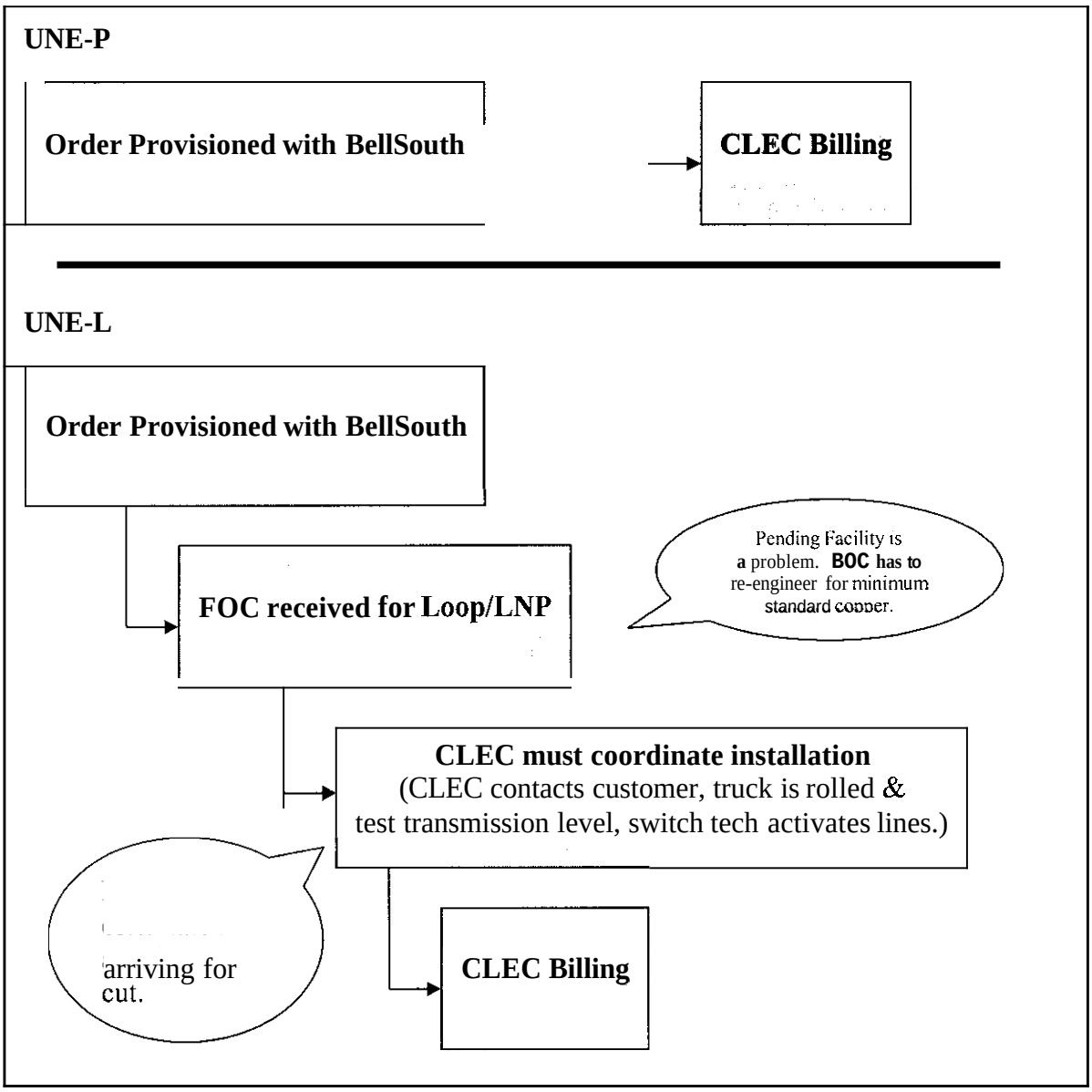
The UNE-P process has considerably less negative impact on the CLECs provisioning expense. The UNE-P process, though still far from were it needs to be, is considerably more mature than the UNE-L process.

BellSouth does not have an OSS infrastructure in place that adequately supports UNE-L. Thus there are unnecessary additional expenses imposed on the CLEC in provisioning process. Given there is no fully mechanized system, the CLEC also has a delay in realization of revenue. Additionally, because of BellSouth unwillingness to provide equivalent service, CLEC's have to incur substantially more expense in verifying transmission levels. It is important to note the transmission level problems persist regardless of how the service is provisioned. The same characteristics are exhibited on an analog voice grade loop Service Level 1 (SL1) and on a analog voice grade loop Service Level 2 (SL2).*

After a UNE-L and Local Number Portability order is sent to BellSouth, an installation has to be coordinated with the customer and a truck has to be rolled to verify the transmission levels of the loop delivered.

* **SL1** loops are 2-wire loop start non-designed circuits that do not have remote access test points. **SL2** loops may be 2-wire or 4-wire and are designed circuits which have remote access test points, and provide a design layout record.

The diagram below illustrates the extreme difference between the two platforms.



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Cost Elements of UNE-L versus UNE-P

Table 1 - Non-Recurring BellSouth Charges (Average 2 line customer)

	Blended Average
UNE-P Order	**$3.50**
UNE-P Install	$4.03
Total UNE-P	**$7.53**
UNE-L (SL1) Loop Order	**$2.28**
UNE-L (SL1) Install	$94.65
Total UNE-L (SL1)	**$96.93**
Difference	$-89.40
LINE-P Order	**$3.50**
UNE-P Install	**$4.03**
Total UNE-P	**$7.53**
UNE-L (SL2) Loop Order	**$2.28**
UNE-L (SL2) Install	$244.32
UNE-L (SL2) Coordination	$40.08
Total UNE-L (SL2)	**$286.68**
Difference	$-279.15

Table 2 ~ Non Recurring CLEC Internal Expenses

	Average
UNE-P Provisioning	**$2.50**
Total UNE-P	**$2.50**
UNE-L Provisioning	$5.00
LINE-L Coordination	**$2.50**
UNE-L Install	$10.00
UNE-L Truck Roll	**$125.00**
Total UNE-L	**$142.50**
Difference	$-140.00

Table 3 - Total CLEC Expenses

	Average
UNE-P	**$10.03**
UNE-L (SL1)	**$239.43**
Difference	**$229.40**
	Average
UNE-P	$10.03
UNE-L (SL2)	**$429.18**
Difference	**$419.15**

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Summary

When using BellSouth UNE-L CLEC's face the following impairment issues:

- quality of service/circuit degradation
- excessive non-recurring expenses
- operational hurdles that impose substantial additional provisioning expense and delay in revenue production

Quality Service Impairment:
BellSouth does not provide CLEC end users with the same quality of service they provide their own end users. BellSouth provisions the CLEC on UNE-L that meets the minimum standards for transmission and/or introduces additional analog to digital conversions.

Excessive Non-Recurring Expenses
Clearly from Table 3 (Total CLEC Expense), UNE-L SL1 and UNE-L SL2 provisioning expense imposes a total incremental expense, above UNE-P, of $229.40 and $419.50 respectively. These non-recurring costs are over and above any recurring expenses (or capital expenditure) incurred by the CLEC to provide local switching. Therefore, it is obvious the UNE-L business model imposes cost penalties to the CLEC that prohibit its use as a viable local service delivery strategy. The economic barrier is further exasperated by chum. The average UNE-P residential/small business customer chums every 12 months.

Operational Hurdles
CLEC's are at an extreme disadvantage in realization of revenue, thus creating a significant competitive disadvantage relative to BellSouth. BellSouth will deliver a local/long distance solution to their end user almost immediately after they receive a customer's order. CLEC's revenue is delayed due to pending facility issues and manual hot cuts (BellSouth does not offer an electronic loop cutover) Additionally, the CLEC's revenue is jeopardized as a by-product of a lower grade loop being delivered by BellSouth.

Conclusion

Until BellSouth removes the economic and technical bamers in the provisioning process and provides parity in loop delivery, CLEC's *must* have access to UNE-P. The ability of a CLEC to compete will be significantly impaired, if not completely eliminated, if UNE-P at TELFUC prices is discontinued. If CLEC's do not have nondiscriminatory access to unbundled switching at TELFUC prices, consumers will pay higher prices and have no choice in their telecommunications provider.